

Docket No.: 132538-1016
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Scott Lascelles et al.

Application No.: 09/991,894

Confirmation No.: 4186

Filed: November 13, 2001

Art Unit: 3694

For: ON-LINE BALANCE TRANSFERS

Examiner: S. Malhotra

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT (IDS)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 CFR 1.56, 1.97 and 1.98, the attention of the Patent and Trademark Office is hereby directed to the references listed on the attached PTO/SB/08. It is respectfully requested that the information be expressly considered during the prosecution of this application, and that the references be made of record therein and appear among the "References Cited" on any patent to issue therefrom.

This Information Disclosure Statement is filed before the mailing date of a Final Office Action or Notice of Allowance (37 CFR 1.97(c)).

Applicant has not submitted copies of each cited U.S. patent and U.S. patent application in accordance with 37 CFR 1.98(a)(2). Applicant submits herewith copies of any cited non-patent documents and foreign patent documents in accordance with 37 CFR 1.98(a)(2).

The owner of the patent application, NextCard, LLC, has brought an action styled NextCard, LLC v. Chase Bank USA, N.A., et al., Civil Action No. 2:09-cv-00394-TJW, in the U.S. District Court for the Eastern District of Texas, Marshall Division that alleges patent infringement of U.S. Patent Nos. 6,405,181, 6,567,791 and 7,143,063 by Chase Bank USA, N.A., Citibank (South Dakota), N.A., Capital One Bank (USA), N.A., Wells Fargo Financial, Inc., Zions First National Bank, N.A. and The Harris Bank, N.A. The patents in suit are related to the present application. Cited in connection with this statement are the complaint, answer, counterclaims and certain other pleadings. Also cited are patent references produced by the defendants and preliminary invalidity contentions without appendices (cite C6) from the defendants. However, several of the appendices have been marked by defendants as confidential and a court order currently prohibits disclosure of documents marked by parties as confidential. The current owner of the application, NextCard, LLC, is attempting to obtain permission to submit these appendices.

The defendants have also produced a very large number of (roughly 1,100) non-patent literature documents. The patent owner is working on preparing a disclosure statement for these references. However, several of these references were marked by the defendants as confidential, and therefore they are subject to the court's order that prohibits their disclosure. These references contain evidence relied upon by the defendants in several of their invalidity contentions concerning the patents in suit. The owner of the application is attempting to obtain permission to disclose these references.

NextCard, LLC filed an action styled NextCard, LLC v. American Express Company, et al., Civil Action No. 2:07-cv-354 (TJW), in the U.S. District Court for the Eastern District of Texas, Marshall Division alleging infringement of U.S. Patent Nos. 6,405,181; 6,567,791; 7,143,063; 6,718,313; and 7,346,576. The patents in suit are related to the present application. Each of the defendants alleged that the patents were invalid by reason of the failure to comply with one or more of the requirements of Title 35, United States Code, including, but not limited to, 35 U.S.C. §§102, 103 and 112. One defendant also had alleged that the patents were unenforceable because of “inequitable conduct committed by the named inventor and/or others during the filing and/or prosecution of the [patents] before the Patent Office.” No facts were alleged in support of any of the allegations. The ‘313 and ‘576 patents relate to methods and apparatus for conducting an on-line chat with an applicant for credit. This action has been settled.

NextCard, LLC has defended an action styled LivePerson, Inc. v. NextCard, LLC, et al., Civil Action No. 08-062 (GMS), in the U.S. District Court for the District of Delaware, in which patent owner alleged infringement of U.S. Patent nos. 6,718,313 and 7,346,576, and in which the plaintiff was seeking a declaration that the patents were invalid and not infringed. No facts supporting these allegations were alleged. The ‘313 and ‘576 patents relate to methods and apparatus for conducting an on-line chat with an applicant for credit. This action was transferred and consolidated with NextCard, LLC v. LivePerson, Inc., Civil Action No. 2:08-cv-00184 (TJW), in the U.S. District Court for the Eastern District of Texas, Marshall Division that alleged infringement by defendant of U.S. Patent Nos. 6,718,313 and 7,346,576. The ‘313 and ‘576

patents relate to methods and apparatus for conducting an on-line chat with an applicant for credit. The consolidated action has been settled.

In accordance with 37 CFR 1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information as defined in 37 CFR 1.56(a) exists. In accordance with 37 CFR 1.97(h), the filing of this Information Disclosure Statement shall not be construed to be an admission that any patent, publication or other information referred to therein is “prior art” for this invention unless specifically designated as such.

It is submitted that the Information Disclosure Statement is in compliance with 37 CFR 1.98 and the Examiner is respectfully requested to consider the listed references.

Applicants are paying the \$180.00 fee as set forth in 37 CFR 1.17(p) via credit card at the time of electronic filing of this paper. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 07-0153, under Order No. 132538-1016.

Dated: February 21, 2011

Respectfully submitted,

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